



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 906

[Doc. No. AMS-FV-14-0054; FV14-906-3 FIR]

Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that decreased the assessment rate established for the Texas Valley Citrus Committee (Committee) for the 2014-15 and subsequent fiscal periods from \$0.16 to \$0.11 per 7/10-bushel carton or equivalent of oranges and grapefruit handled. The Committee locally administers the marketing order, which regulates the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. The interim rule was necessary to decrease the assessment rate to reflect reductions to the marketing program and management fees while still providing adequate funding to meet program expenses.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324-3375, Fax: (863) 291-8614, or E-mail: Doris.Jamieson@ams.usda.gov or Christian.Nissen@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following website:

<http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide>; or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or E-mail: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 906, as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of

1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

Under the order, Texas orange and grapefruit handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable Texas oranges and grapefruit for the entire fiscal period, and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on August 1, and ends on July 31.

In an interim rule published in the **Federal Register** on August 14, 2014, and effective on August 15, 2014, (79 FR 47551, Doc. No. AMS-FV-14-0054, FV14-906-3 IR), § 906.235 was amended by decreasing the assessment rate established for Texas citrus for the 2014-2015 and subsequent fiscal periods from \$0.16 to \$0.11 per 7/10-bushel carton or equivalent. The decrease in the assessment rate is based on reductions in funding for its marketing program and management fees while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 170 producers of oranges and grapefruit in the production area and 13 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than \$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,000,000 (13 CFR 121.201).

According to Committee data and information from the National Agricultural Statistics Service, the weighted

average grower price for Texas citrus during the 2012-13 season was around \$12.98 per box and total shipments were near 8.5 million boxes. Using the weighted average price and shipment information, and assuming a normal distribution, the majority of growers would have annual receipts of less than \$750,000. In addition, based on available information, the majority of handlers have annual receipts of less than \$7,000,000 and could be considered small businesses under SBA's definition. Thus, the majority of producers and handlers of Texas citrus may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2014-15 and subsequent fiscal periods from \$0.16 to \$0.11 per 7/10-bushel carton or equivalent of Texas citrus. The Committee recommended 2014-15 expenditures of \$809,500 and an assessment rate of \$0.11 per 7/10-bushel carton or equivalent handled. The assessment rate of \$0.11 is \$0.05 lower than the 2013-14 rate. The quantity of assessable oranges and grapefruit for the 2014-15 fiscal period is estimated at 8.2 million 7/10-bushel cartons. Thus, the \$0.11 rate should provide \$902,000 in assessment income and be adequate to meet this

year's expenses. This action decreases the assessment rate to reflect reduced funding for the marketing program and management fees while still providing adequate funding to meet program expenses.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee's meeting was widely publicized throughout the Texas citrus industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 5, 2014, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0189 Generic Fruit Crops. No changes in those requirements as a result of this action are anticipated. Should any changes

become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Texas orange and grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Comments on the interim rule were required to be received on or before October 14, 2014. No comments were received. Therefore, for reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

<http://www.regulations.gov/#!documentDetail;D=AMS-FV-14-0054-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (79 FR 47551, August 14, 2014) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

PART 906 - ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

Accordingly, the interim rule amending 7 CFR part 906, which was published at 79 FR 47551 on August 14, 2014, is adopted as a final rule, without change.

Dated: January 15, 2015.

Rex A. Barnes
Associate Administrator
Agricultural Marketing Service

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